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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/008,947	01/20/1998	RANDELL L. MILLS	911322US	6830
7590 02/02/2006 FARKAS & MANELLI 2000 M STREET, N.W. 7TH FLOOR WASHINGTON, DC 200363307			EXAMINER KALAFUT, STEPHEN J	
			ART UNIT 1745	PAPER NUMBER

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/008,947	Applicant(s) MILLS, RANDELL L.	
	Examiner Stephen J. Kalafut	Art Unit 1745	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 17 January 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See body of action.
 12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 17 January 2006
 13. ☐ Other: _____.

Applicant's arguments filed 17 January 2006 have been fully considered but they are not persuasive.

The response of 17 January 2006 appears to be a resubmission of arguments and attachments submitted in previous papers. All attachments except nos. 113 and 114 have been previously considered. Both of these would fall into category (1), as explained in paper no. 20040405, as not having been peer reviewed, and into category (4) of paper no. 20040405, as speculating hydrino formation as an explanation for experimental data unrelated to and not necessarily caused by hydrinos, such as Balmer line broadening. Attachments 111 and 112 were considered in paper no. 20050714, but were not cited on any form PTO-1449 previous to that action. Thus, they are initialed on the PTO-1449 attached to the present action.

Regarding some of the articles that have not been previously submitted, these not only do not support applicant's theory, but also find drawbacks to it. For example, Cvetanovic *et al.* (cited on page 4 of the IDS of 13 May 2005), on page 7, list several "experimental facts" which cannot be explained by applicant's alleged mechanism for Balmer line broadening, called the "resonance transfer model", abbreviated as "RTM". The article entitled "Attempt to Observe Excess Heat in a Ni-H₂O-K₂CO₃ Electrolysis System" (cited on page 12 of the IDS) concluded with "Our Mills experiment showed no detectable sign of excess heat." Rathke, in "A Critical Analysis of the Hydrino Model" (cited on page 12 of the IDS of 17 January 2006), finds applicant's theory ("CQM") "mathematically inconsistent in several points" (page 5, first full ppg.), and recommends that "experimental evidence put forth in favor of the existence of hydrinos should be reconsidered for interpretation in terms of conventional physics" (page 6, just above the footnotes). According to Barth, in "Bigger Than Fire?" (cited on page 11 of the IDS

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of 17 January 2006), applicant overlooks the electromagnetic attraction between the nucleus and the electron, and does not use Planck's constant (starting at page 42, right column)

Applicant insists (page 161) that attachments A through R relate to issues relate directly to issues involving the improper examination of this application and the defective nature of the rejections issued in this case. None of these attachments contain data relating to the scientific merits of the present invention. Applicant has made numerous references to a Dr. Robert Park, whom he alleges to have had contact with a "Deep Throat" in the Office (page 31), and to have had "direct involvement in Blacklight's patent affairs" (page 32), "Blacklight" being the name of applicant's business. While applicant argues (page 24) that "the PTO rationalized its withdrawal of Blacklight's five allowed patent applications, in part, by citing a January 12, 2000 article written by Dr. Robert Park", citing a published article hardly constitutes contact with the author. The reference to the present applicant in the article does not mean that Dr. Park had obtained confidential information from the Office, because applicant published an edition of his book, *The Grand Unified Theory Of Classical Quantum Mechanics*, in January 2000. While applicant argues (page 32) that Dr. Park knew about several of applicant's applications, the knowledge of which "is supposedly kept confidential", the Washington Post article by Dr. Park which refers to applicant's patent and a second application set to issue two weeks thereafter was published on 18 August 2000, which was three days after the publication of the U. S. District Court decision (part of Attachment K) which referred in which these applications were mentioned (page 1 thereof). Thus, both articles written by Dr. Park appear to be based on information that was already public at the two respective times that the articles were published. No "Deep Throat" or other improper contact would have been necessary.

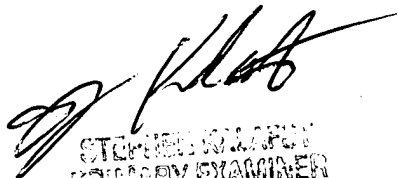
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sjk


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